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7 UNITED STATES DISTRICT COURT FOR THE
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 JOSH KLEIN, a California resident; and)
11 COVALENCE CAPITAL FUND I, LP, a)
12 Delaware limited liability partnership,)
13 *Plaintiffs,*)

14 v.)

15 DOUGLAS JAW WOO KIM, a New York)
16 resident,)
17 *Defendant.*)

CASE NO. 2:20-cv-01628-BJR

ORDER RENOTING PLAINTIFFS'
MOTION FOR SUMMARY JUDGMENT
AND AMENDING CASE SCHEDULE

17 Plaintiffs in this matter are an investment fund and one of its principals who claim they
18 loaned Defendant funds to enable him to invest in cryptocurrency. *See* Am. Compl., Dkt. No. 15
19 ¶ 8–51; Mot. for Summ. J., Dkt. No. 25 at 2–11 (“Mot.”). Plaintiffs allege Defendant fabricated
20 financial information and made other false representations about his investment activities in order
21 to induce them to continue providing loans. They further allege that Defendant was actually using
22 the loan proceeds to finance activities on online gambling websites and that Defendant defaulted
23 on the loans.
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1 Although the close of discovery is set for January 12, 2022 and the last day for filing
2 dispositive motions is February 11, 2022, *see* Order Setting Trial Dates and Related Dates, Dkt.
3 No. 19 at 1, Plaintiffs filed a Motion for Summary Judgment on April 19, 2021, *see* Mot.

4 In response to Plaintiffs' Motion for Summary Judgment, Defendant requests that the Court
5 defer consideration of Plaintiffs' Motion until the close of discovery on January 12, 2022. Def.'s
6 Opp'n to Pls.' Mot. for Summ. J., Dkt. No. 31.

7 Rule 56(d) permits a District Court to (1) defer consideration of a motion for summary
8 judgment or deny it; (2) allow additional time to conduct discovery; or (3) "issue any other
9 appropriate order" where a nonmovant shows "for specified reasons, it cannot present facts
10 essential to justify its opposition." FED. R. CIV. P. 56(d). In order to prevail on a request for
11 additional discovery under Rule 56, the nonmovant must show "(1) it has set forth in affidavit form
12 the specific facts it hopes to elicit from further discovery; (2) the facts sought exist; and (3) the
13 sought-after facts are essential to oppose summary judgment." *InteliClear, LLC v. ETC Glob.*
14 *Holdings, Inc.*, 978 F.3d 653, 662 (9th Cir. 2020) (quoting *Midbrook Flowerbulbs Holland B.V. v.*
15 *Holland Am. Bulb Farms, Inc.*, 874 F.3d 604, 619–20 (9th Cir. 2017)). The Ninth Circuit has
16 instructed that, at the early stage of a case—for example prior to discovery having elapsed—,
17 District Courts are to grant additional discovery time before ruling on a motion for summary
18 judgment "fairly freely." *Burlington N. Santa Fe R. Co. v. Assiniboine & Sioux Tribes of Fort*
19 *Peck Rsrv.*, 323 F.3d 767, 773 (9th Cir. 2003).

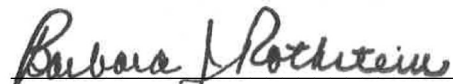
22 Defendant has submitted an affidavit from his attorney attesting to the need for additional,
23 specific evidence. *See* Decl. of Jon-Erik Magnus, Dkt. No. 32. It is clear to the Court after
24 reviewing the evidence Plaintiffs have submitted in support of their Motion, however, that
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1 Defendant now possesses much of the relevant evidence he seeks. The Court finds there is no
2 need to delay consideration of Plaintiffs' Motion until January 2022. Therefore, the Court will
3 allow Defendant limited additional time to conduct discovery as provided below.

4 The Court hereby ORDERS as follows:

- 5 (1) Plaintiffs' Motion for Summary Judgment is renoted for October 22, 2021;
6 (2) Defendant shall have until September 15, 2021 to complete discovery;
7 (3) Defendant shall file his response to Plaintiffs' Motion for Summary Judgment
8 no later than October 8, 2021;
9 (4) Plaintiffs shall file their reply in support of their Motion for Summary Judgment
10 no later than October 22, 2021;
11 (5) The Court hereby AMENDS its case scheduling order and sets the following
12 deadlines:
13 a. Expert Witness Disclosure/Reports under FRCP 26(a)(2) due by
14 August 17, 2021;
15 b. All discovery completed by September 15, 2021;
16 c. Any other dispositive motions due by October 8, 2021;
17 d. Motions in Limine due by February 1, 2022;
18 e. Responses to Motions in Limine due by February 8, 2022;
19 f. Joint Pretrial Statement due by February 15, 2022;
20 g. Pretrial Conference set for February 28, 2022 at 10:30 AM; and
21 h. Jury Trial is set for March 15, 2022 at 9:00 AM.

22 DATED this 17th day of June, 2021.

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24 BARBARA J. ROTHSTEIN
25 UNITED STATES DISTRICT JUDGE